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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,495	12/03/2003	Ruth Frank	F8860.0001/P001-A	3983
24998	7590	10/18/2004	EXAMINER	
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP				NGUYEN, TAI T
2101 L STREET NW				ART UNIT
WASHINGTON, DC 20037-1526				PAPER NUMBER
				2632

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/725,495	FRANK, RUTH	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tai T. Nguyen	2632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 December 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/13/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Double Patenting***

1. Claims 1-13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. Patent No. 6,693,537. Although the conflicting claims are not identical, they are not patentably distinct from each other because both presence claimed invention and patent are disclosed the same personal item tray.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 recites the limitation "the lower surface" in line 10. There is insufficient antecedent basis for this limitation in the claim.

4. Claim 9 recites the limitation "the lower section" in line 8. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2, 6-7, 11 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Grzywa (US 4,754,883).

**Regarding claim 1,** Grzywa discloses a (10) including all subject matters as follows:

- a storage surface (12, figures 1-2; col. 3, lines 6-10);
- a plurality of personal item storage elements (22, 36a-d, , 38a-d) located on said storage surface (figures 1-2; col. 3, lines 13-20);
- a base (16) for support the storage surface attached below said storage surface (figures 1-2); and
- a lateral movement restriction component (24) incorporated onto a lower surface of said base (figures 1-2; col. 3, lines 29-41).

**Regarding claim 2,** Grzywa further discloses a personal item identification features (39, figure 2; col. 5, lines 21-39).

**Regarding claim 6,** refer to claim 1 above.

**Regarding claim 7,** refer to claim 2 above.

**Regarding claim 11,** refer to claim 1 above.

**Regarding claim 13,** as shown in figures 1-2, Grzywa discloses the tray having compartments (22, 36a-d, 38a-d) for storing personal items when the tray is placed in horizontal.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 3-4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grzywa in view of Mucciacciaro (US 5,239,491).

**Regarding claim 3,** Grzywa discloses the instant claimed invention except for: a personal item presence sensing circuits and a signal circuits used to indicate one or more personal items are not present on the tray. Mucciacciaro teaches a container sensing and warning means including a plurality of personal item storage elements (3), each having a presence sensing circuit (6) and a signal circuit (12) adapted to indicate one or more personal items are not presence on the tray (1, figure 1; col. 2, lines 15-34). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to utilize the sensing circuit and signal circuit as taught by Mucciacciaro into the system as disclose by Grzywa in order to sense and indicate to a user that his/her personal items are not presence in their particular storage elements.

**Regarding claim 4,** refer to claims 1-3 above, Grzywa further discloses that each of the storage element is unique in size, shape and only matches one of each personal item stored therein (figure 1).

**Regarding claim 12,** refer to claim 3 above.

9. Claims 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Grzywa and Mucciacciaro (US 5,239,491) as applied to claim 4 above, and further in view of Rojas, Jr. (US 6,445,299).

**Regarding claim 5,** Grzywa discloses the instant claimed invention except for: movement sense mechanism and alert signal mechanism which triggered and communicates an alarm signal when the tray is dropped. Rojas, Jr. teaches a patient call unit (40) mounted on a patient by fastening wristband (42), wherein the patient call unit including a fall detector (56) that triggers and transmits an alarm signal to a wall unit (60) to turn on a visual/audibly alarm (figures 1 and 4; col. 5, lines 35-52 and col. 7, lines 15-43). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the fall detector as taught by and alert signal mechanism into the system as disclose by Grzywa, as applied on the tray as disclosed by Grzywa, in order to detect a drop condition and alert the staff or other users that the tray has been dropped.

10. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grzywa.

**Regarding claim 8,** as shown in figure 1, Grzywa discloses the tray comprise personal item storage containers (36a-d) designed to fit securely within the compartments recessed onto the tray's planer surface. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to include a

denture cup in compartments (36a), eyeglasses case in compartment (38a) and a hearing aid in compartment (36c) for the purpose of personal item usage.

**Regarding claim 9,** Grzywa discloses the instant claimed invention, as mentioned in claim 1 above, except for: a set of weights evenly distributed in the lower section. Since Grzywa discloses the tray (10) having a bottom edge (16) which rests upon a supporting surface (18, figure 1). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use a set of weight that is evenly distributed in the bottom edge (16) for the purpose of keeping the tray stands upon its base.

**Regarding claim 10,** refer to claim 8 above.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bellavoine (US 4,217,476) and Moore (US 3,987,267).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tai T. Nguyen whose telephone number is (703) 308-0160. The examiner can normally be reached on Monday-Friday from 7:30am-5:00pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on (703) 308-6730. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3988 for regular communications and (703) 305-3988 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

A handwritten signature in black ink, appearing to read "Tai T. Nguyen", is written over a horizontal line.

October 6, 2004

Tai T. Nguyen

Examiner

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